

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of The Oklahoma Corporation	)	CC Docket No. 99-200
Commission for Expedited Decision	)	
for Delegation of Authority to Implement	)	DA 04-3420
Additional Numbering Optimization	)	
Measures	)	

**REPLY COMMENTS OF SBC COMMUNICATIONS INC.**

SBC Communications Inc. (“SBC”) submits the following reply comments in response to the Petition of the Oklahoma Corporation Commission (“Oklahoma”) for Expedited Decision for Delegation of Authority to Implement Additional Number Conservation Measures (“*OCC Petition*”).<sup>1</sup>

**I. INTRODUCTION AND SUMMARY**

SBC understands and recognizes the need for number conservation. Number resources are vital to consumers, states, and carriers, and there is a great need to ensure that those resources are available for as long as possible. Carriers, states, and the Commission have worked together well in the past several years to implement measures that will safeguard these precious resources. Deciding when and how to institute such measures, however, is a delicate balancing act whereby the Commission must be judicious and enact only those measures that are in the public interest. For this reason, the Commission has established a test to determine when it is appropriate to

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<sup>1</sup> *Number Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket 99-200, CC Docket 96-98, *Petition of the Oklahoma Corporation Commission for Expedited Decision for Delegation of Authority to Implement Additional Number Conservation Measures* (2004) (“*OCC Petition*”).

delegate authority to the states to implement one of the strongest of these measures – number pooling.

SBC believes if the Commission determines that Oklahoma has met the Commission’s four-part test or alternative “special circumstances” requirement for thousands-block number pooling authority, the Commission should grant Oklahoma’s request for delegated authority. SBC currently voluntarily participates in pooling in the qualified rate centers in the 580 area code.

SBC does not, however, agree with the opinion expressed by the Public Utilities Commission of Ohio that the delegated authority requested by the OCC be extended to all states. While it may be the case that many states have numbering resource issues similar to those presented by Oklahoma in its petition, every state and every carrier in that state is faced with a different set of circumstances that may determine whether number pooling is necessary and/or feasible. The Commission has established a test that each state must meet before the Commission will grant delegated authority for number pooling and the Commission should not deviate from that process. Each state must make a showing that number pooling is necessary in a particular area code before the Commission grants authority to that state.

## **II. IF THE COMMISSION DETERMINES OKLAHOMA HAS MET THE CRITERIA FOR DELEGATED AUTHORITY, SBC SUPPORTS THE COMMISSION’S GRANT OF OKLAHOMA’S REQUEST**

The Commission, in its *Numbering Resource Optimization*, First Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd. 7574 (2000), (“*First Report and Order*”) established a three-part test to determine when it would be appropriate to delegate authority to a state to implement thousands-block number pooling: “(1) that an NPA in [the] state is in jeopardy, (2) the NPA in question has a remaining life span of at least a year, and (3) that NPA is in one of the largest 100 MSAs, or, alternatively, the majority of wireline carriers in the NPA are

LNP-capable.”<sup>2</sup> The Commission also recognized “there may be ‘special circumstances’ where pooling would be of benefit in NPAs that do not meet all of the above criteria” and acknowledged that it may grant authority if a state makes a satisfactory showing of those circumstances.<sup>3</sup>

Oklahoma pointed out, in its petition, that the 580 NPA is not in jeopardy, but is projected to exhaust “during the second quarter of 2007.”<sup>4</sup> And while the majority of the 580 NPA is not in one of the 100 largest MSAs, many of the carriers in the NPA are LNP-capable. Oklahoma, however, did not attempt to demonstrate whether the *majority* of carriers in that NPA are LNP-capable, and does not appear to be basing its request for delegated authority on a demonstration that it meets the three-part test for number pooling delegated authority.

Oklahoma, instead, is seeking authority based upon special circumstances. It demonstrates that the demand for numbering resources in the 580 NPA is increasing. It also mentions that “many carriers have chosen not to participate in optional pooling and continue to request full NXX codes.”<sup>5</sup> SBC actively participates in pooling in all of the LNP-capable rate centers in the 580 NPA where at least one other LNP-capable carrier has numbering resources. And SBC supports pooling in an effort to delay NPA exhaust and does not believe carriers should request full NXX codes when only partial codes are needed. Should the Commission decide that its “special circumstances” requirement has been met, a question for which SBC does

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<sup>2</sup> *First Report and Order* at ¶170.

<sup>3</sup> *Id.*

<sup>4</sup> *OCC Petition* at 3.

<sup>5</sup> *Id.* at 4.

not state a position, SBC will be supportive of mandated pooling in LNP-capable rate centers in the 580 NPA where at least one other LNP-capable carrier with numbering resources exists.

**III. THE COMMISSION SHOULD NOT AUTOMATICALLY EXTEND DELEGATED AUTHORITY FOR NUMBER POOLING TO ALL OF THE STATES, BUT RATHER, SHOULD CONTINUE TO REQUIRE STATES TO MAKE A SHOWING THAT NUMBER POOLING IS NECESSARY**

In its Comments to the *OCC Petition*, the Public Utilities Commission of Ohio (“Ohio”) recommends the Commission grant Oklahoma’s requested delegated authority and extend that authority to all states.<sup>6</sup> The Commission has established rules, however, to determine when a state is eligible for pooling authority for any of its NPAs. And those rules, as demonstrated in Section II of these comments, require each state to demonstrate that it meets the criteria for pooling authority for each NPA for which authority is sought. The Commission cannot broaden the scope of delegated authority specifically requested by Oklahoma and based upon facts unique to Oklahoma and grant the same authority to all states. Nor can the Commission change its rule and extend pooling authority to all states without giving carriers notice of the proposed rule change and an opportunity to comment.<sup>7</sup>

Each state is unique and each NPA presents its own unique set of challenges to carriers attempting to implement number pooling. Presumably, it is for this very reason that the Commission established a rule requiring each state to demonstrate its need for authority to implement pooling on an NPA-by-NPA basis. If, however, the Commission decides that the time has come for nationwide number pooling, the Commission must establish new rules for number pooling for rate centers outside the top 100 MSAs, and provide the public with notice of the proposed rules and an opportunity to comment. SBC believes that nationwide number pooling is unnecessary at this time, but suggests that if the Commission believes otherwise, it

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<sup>6</sup> Comments of the Public Utilities of Ohio at 6.

<sup>7</sup> See generally 5 U.S.C. §553.

should first seek guidance from the NANC before developing and proposing new rules to the industry.

#### **IV. CONCLUSION**

For the foregoing reasons, the Commission should grant Oklahoma delegated authority for number pooling if it determines Oklahoma meets the Commission's required criteria. The Commission should not, however, extend that authority to all states.

Respectfully Submitted,

/s/ Jennifer Byrd

Jennifer Byrd  
Gary L. Phillips  
Paul K. Mancini

SBC Communications Inc.  
1401 I Street NW 11<sup>th</sup> Floor  
Washington, D.C. 20005  
Phone: 202-326-8904  
Facsimile: 202-408-8745

Its Attorneys

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